

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICHARD DEMPSEY,

Plaintiff,

Civil Action No.: 1:21-cv-04620-AMD-
RER

-against-

THE BRISTAL ASSISTED LIVING,
ULTIMATE CARE ASSISTED LIVING
MANAGEMENT LLC d/b/a
ULTIMATE CARE MANAGEMENT,
THE ENGEL BURMAN GROUP LLC
a/k/a THE ENGEL BURMAN GROUP,
JOHN DOE #1, and JOHN DOE #2,

Defendants.

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**AMENDED COMPLAINT AND
DEMAND FOR TRIAL BY JURY**

Plaintiff, RICHARD DEMPSEY, by his attorneys, HACH & ROSE, LLP, complaining of
the defendants, allege upon information and belief, as follows:

JURISDICTION

1. Plaintiff, RICHARD DEMPSEY, is a citizen of the State of New Jersey, residing at 10
Dean Road, Mendham, New Jersey 07945.

2. Upon information and belief, Defendant THE BRISTAL ASSISTED LIVING is an
assisted living facility located at 8 Freer Street, Lynbrook, New York 11563.

3. Upon information and belief, Defendant ULTIMATE CARE ASSISTED LIVING
MANAGEMENT LLC d/b/a ULTIMATE CARE MANAGEMENT is a New York limited liability
company with its principal place of business at 67 Clinton Road, Garden City, New York 11530.

4. Upon information and belief, Defendant ULTIMATE CARE ASSISTED LIVING MANAGEMENT LLC d/b/a ULTIMATE CARE MANAGEMENT is the entity that manages or managed Defendant THE BRISTAL ASSISTED LIVING located at 8 Freer Street, Lynbrook, New York 11563.

5. Upon information and belief, Defendant THE ENGEL BURMAN GROUP LLC a/k/a THE ENGEL BURMAN GROUP is a Delaware limited liability company with a principal place of business at 300 Jericho Turnpike, Jericho, New York, 11753.

6. Upon information and belief, Defendant THE ENGEL BURMAN GROUP LLC a/k/a THE ENGEL BURMAN GROUP is the entity that owns or owned THE BRISTAL ASSISTED LIVING located at 8 Freer Street, Lynbrook, New York 11563.

7. Upon information and belief, Defendant ULTIMATE CARE ASSISTED LIVING MANAGEMENT LLC d/b/a ULTIMATE CARE MANAGEMENT is wholly owned and controlled by Defendant THE ENGEL BURMAN GROUP LLC a/k/a THE ENGEL BURMAN GROUP.

8. The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

9. This court has diversity jurisdiction over this action under 28 U.S.C. § 1332 (a).

10. Venue is properly placed in the United States District Court for the Eastern District of New York based upon the residence of Plaintiff and Defendants, ULTIMATE CARE ASSISTED LIVING MANAGEMENT LLC d/b/a ULTIMATE CARE MANAGEMENT, and THE ENGEL BURMAN GROUP LLC a/k/a THE ENGEL BURMAN GROUP.

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF

PLAINTIFF, RICHARD DEMPSEY

11. On July 21, 2019, Plaintiff, RICHARD DEMPSEY was residing at an assisted living facility known as THE BRISTAL ASSISTED LIVING located at 8 Freer Street, Lynbrook, New York 11563.

12. On July 21, 2019, Plaintiff, RICHARD DEMPSEY, was lawfully present at THE BRISTAL ASSISTED LIVING located at 8 Freer Street, Lynbrook, New York 11563.

13. On July 21, 2019, while present at THE BRISTAL ASSISTED LIVING, Plaintiff, RICHARD DEMPSEY was seriously injured when he slipped and fell on water on the floor in the bathroom.

14. The above occurrence was caused solely by and through the negligence of the defendants, their agents servants and/or employees, herein, including, but not limited to Defendants known as JOHN DOE #1 and/or JOHN DOE #2, without any negligence on the part of the plaintiff contributing thereto.

15. The defendants and/or each of them had both actual and constructive notice of the dangerous and defective conditions and practices complained of herein.

16. The defendants created the defective and dangerous condition.

17. Defendants, their agents, servants, or employees, were negligent in that they caused, allowed, and permitted their premises to become and remain in a defective, dangerous, improper, and negligent condition; in that they failed to take reasonable or any precaution for the safety of plaintiff and other residents of the assisted living facility; in that they caused, allowed, and permitted the floor of a bathroom for the use of plaintiff and/or others to become and remain in a wet, slippery, dangerous, and otherwise negligent condition so that as plaintiff was lawfully in and upon the

bathroom floor he was caused to slip and fall, sustaining the injuries hereinafter alleged; and that Defendants were otherwise negligent under the circumstances.

18. That as a result of the negligence of the Defendants, Plaintiff, RICHARD DEMPSEY, became, still is and for a long time to come, will be sick, sore, lame, bruised, injured, disabled and wounded in and about the various parts of his head, limbs, body, blood vessels and surrounding tissues, and has suffered severe and extreme mental shock, anguish and psychic injuries, and that plaintiff was otherwise injured, and upon information and belief, said injuries are permanent. That by reason of the foregoing, Plaintiff, RICHARD DEMPSEY was obligated to and did necessarily employ medical aid, hospital services, take medication, and employ medical supplies in an attempt to cure the aforesaid injuries, and has been prevented from his/her usual duties and will be so prevented for a long time to come;

19. Defendants are jointly and severally liable for non-economic loss herein, pursuant to CPLR, Article 16.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants jointly and severally, in all causes of action, for the following relief:

- a) Compensatory and punitive damages in the sum of Five Million Dollars (\$5,000,000.00);
- b) Interest and costs of the suit; and
- c) For such other relief as the Court deems fair, equitable and just.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury of all issues.

Dated: New York, New York
September 3, 2021

Evan F. Bane

Evan F. Bane (EB7784)
HACH & ROSE, LLP
112 Madison Avenue, 10th Floor
New York, NY 10016
(212) 779-0057